



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2018-0055; FRL-9980-12-Region 8]

#### **Interstate Transport Prongs 1 and 2 for the 2012 Fine Particulate Matter (PM<sub>2.5</sub>) Standard for Colorado, Montana, North Dakota, South Dakota and Wyoming**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving portions of State Implementation Plan (SIP) submissions from Colorado, Montana, North Dakota, South Dakota and Wyoming addressing the Clean Air Act (CAA or Act) interstate transport SIP requirements for the 2012 annual Fine Particulate Matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS). These submissions address the requirement that each SIP contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. The EPA is approving portions of these infrastructure SIPs for the aforementioned states as containing adequate provisions to ensure that air emissions in the states will not significantly contribute to nonattainment or interfere with maintenance of the 2012 annual PM<sub>2.5</sub> NAAQS in any other state.

**DATES:** This rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA-EPA-R08-OAR-2018-0055. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose

disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Adam Clark, Air Program, U.S. EPA Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-7104, or [clark.adam@epa.gov](mailto:clark.adam@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

## **I. Background**

On May 9, 2018, the EPA proposed to approve submittals from Colorado, Montana, North Dakota, South Dakota and Wyoming as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2012 PM<sub>2.5</sub> NAAQS (83 FR 21226). An explanation of the CAA requirements, a detailed analysis of the states’ submittals, and the EPA’s rationale for approval of each submittal were all provided in the notice of proposed rulemaking and associated technical support documents, and will not be restated here. The public comment period for this proposed rule ended on June 8, 2018. The EPA received four anonymous comments on the proposal.

## **II. Response to Comments**

After reviewing the comments received, the EPA has determined that the comments fall outside the scope of our proposed action or fail to identify any material issue necessitating a response.

### **III. Final Action**

The EPA is approving the following submittals as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2012 PM<sub>2.5</sub> NAAQS: Colorado's December 1, 2015 submittal; Montana's December 17, 2015 submittal; North Dakota's August 23, 2015 submittal; South Dakota's January 25, 2016 submittal; and Wyoming's June 24, 2016 submittal. This action is being taken under section 110 of the CAA.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, these SIPs are not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct

costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: June 28, 2018.

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Debra Thomas,  
Acting Regional Administrator,  
Region 8.

40 CFR part 52 is amended as follows:

**PART 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart G – Colorado**

2. Section 52.352 is amended by adding paragraph (e) to read as follows:

**§52.352 Interstate transport.**

\* \* \* \* \*

(e) Addition to the Colorado State Implementation Plan of the Colorado Interstate Transport SIP regarding 2012 PM<sub>2.5</sub> Standards, submitted to EPA on December 1, 2015, for both elements of CAA section 110(a)(2)(D)(i)(I) for the 2012 PM<sub>2.5</sub> NAAQS.

**Subpart BB - Montana**

3. Section 52.1393 is amended by adding paragraph (d) to read as follows:

**§ 52.1393 Interstate transport requirements.**

\* \* \* \* \*

(d) EPA is approving the Montana 2012 PM<sub>2.5</sub> NAAQS Infrastructure Certification, submitted to EPA on December 17, 2015, for both elements of CAA section 110(a)(2)(D)(i)(I) for the 2012 PM<sub>2.5</sub> NAAQS.

#### **Subpart JJ - North Dakota**

4. Section 52.1833 is amended by adding paragraph (g) to read as follows:

#### **§52.1833 Section 110(a)(2) infrastructure requirements.**

\* \* \* \* \*

(g) EPA is approving the North Dakota 2012 PM<sub>2.5</sub> NAAQS Infrastructure Certification, submitted to EPA on August 23, 2015, for both elements of CAA section 110(a)(2)(D)(i)(I) for the 2012 PM<sub>2.5</sub> NAAQS.

#### **Subpart QQ - South Dakota**

5. Section §52.2170, paragraph (e), is amended by adding table entry XXI. to read as follows:

#### **§52.2170 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

<b>Rule title</b>	<b>State effective date</b>	<b>EPA effective date</b>	<b>Final rule citation, date</b>	<b>Comments</b>
* * * * *				
XXI. Section 110(a)(2)(D)(i)(I) Interstate Transport Requirements for the 2012 PM <sub>2.5</sub> NAAQS	Submitted: 1/25/2016	[Insert date 30 days after date of publication in the <b>Federal Register</b> ]	[Insert <b>Federal Register</b> citation], [Insert <b>Federal Register</b> date of	

			publication]	
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### Subpart ZZ - Wyoming

6. Section 52.2620, paragraph (e), is amended by adding table entry (30) to read as follows:

#### §52.2620 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

Rule No.	Rule title	State effective date	EPA Effective date	Final rule citation, date	Comments
(30) XXX	Interstate transport SIP for Section 110(a)(2)(D)(i)(I) prongs 1 and 2 for the 2012 PM <sub>2.5</sub> NAAQS.	6/24/2016	[Insert date 30 days after date of publication in the <b>Federal Register</b> ]	[Insert <b>Federal Register</b> citation], [Insert <b>Federal Register</b> date of publication]	

[FR Doc. 2018-14386 Filed: 7/3/2018 8:45 am; Publication Date: 7/5/2018]